



The Brotherhood of Locomotive Engineers and Trainmen

Union Pacific Railroad Southern Region
 General Committee of Adjustment
 Gil L. Gore - General Chairman
 1448 MacArthur Avenue Harvey, LA 70058
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 gilgore@bletsr.org
 Proud Member of the International Brotherhood of Teamsters

February 20, 2008

BY FAX (202) 245-0464
 AND BY UPS NEXT DAY AIR
 (202) 245-0335

ENTERED
 Office of Proceedings

FEB 21 2008

Part of
 Public Record

Anne K. Quinlan, Esquire
 Acting Secretary
 Surface Transportation Board
 395 E Street, S.W., Suite 1149
 Washington, D.C. 20423-0001

Re: Matter of Arbitration Between Union Pacific Railroad Company and
 Brotherhood of Locomotive Engineers & Trainmen
STB Finance Docket No. 32760, Sub File 45

Dear Ms. Quinlan:

Please accept this letter as the Opposition of the Brotherhood of Locomotive Engineers and Trainmen (BLET) to the Motion of the Union Pacific Railroad (UPRR) for an Extension of Time to File Appeal From Arbitration Award. This Opposition is based upon two grounds: 1) The motion should not be granted because it is untimely and out of order; and 2) the Board lacks jurisdiction because the involved arbitration does not involve the subject of any decision of the Board or Board imposed protective conditions. Under the circumstances, the motion should be denied.

Clearly, the motion is untimely and contravenes 49 CFR 1115.8 and 1104.7(b) and the Board's policy established in regard to the involved time limits. Until Monday, February 18, 2008, BLET was totally unaware that UPRR had filed for its original extension of time herein and that the STB had issued an extension to February 15, 2008 to enter its appeal in this matter. If BLET had known that a request for extension had been filed, it would have opposed it; if it had known that it had not been served and the Board's decision had been issued, it would have filed a motion to overturn and set aside that ruling. In this regard see the attached declaration from Vice General Chairman Brotherhood of Locomotive Engineers and Trainmen Gary Perrin Union Pacific Southern Region, assistant to General Chairman Gore. It is already 45 days from the date on which a timely request for extension and/or the appeal herein could have been filed. The actions and subterfuge engaged in by UPRR, unwittingly or not, is contrary to the Board's requirement that good cause be shown by the applicant for any waiver or extension of these deadlines. To grant the further extension now requested by UPRR, when it has an in-house legal staff and a very efficient, well-staffed and well-known outside firm representing it in STB and

Anne K. Quinlan, Esquire
February 20, 2008

Page 2


labor matters, would violate the purpose of the time limits in "the efficient conduct of agency business so as to minimize the cost of delay on the parties and to bring finality to arbitration awards." As this Board stated in *Union Pacific Corp., etc. - Control and Merger - Southern Pacific Railroad*, STB Finance Docket No 32760 (Sub-No. 43) (service date of January 19, 2005)(slip op at 30), "Our goal is to administer deadline requirements impartially so as to provide certainty and predictability to all parties." In the cited case, UPRR's request for an extension was similarly rejected as unfortunate but without cause, where the carrier is a sophisticated party, has a large legal department and an outside law firm. See also, *Union Pacific Corp. - Control and Merger - Southern Pacific Rail Corp.*, STB Finance Docket No. 32760 (Sub-No. 39) (STB served Dec. 8, 2000) (union's request for extension rejected though only 1 month and 4 days). On this basis alone, the UPRR's Request for an Extension, the rationale for which is similar to its 2005 request, must be rejected.

There is another reason that UPRR's Request is misguided. As the first paragraph of UPRR's Motion states, the matter arises out of a dispute between it and BLET "regarding the Carrier's right to establish interdivisional service between Houston, Texas, and several other locations in Texas." The carrier served a notice under Section IX of the 1986 National Agreement between BLET and the National Carriers Conference Committee. The Section IX Notice served by UPRR had no reference to the Board's decision in Finance Docket No. 32760, the implementing agreements or the protections of the employees contained in those agreements or imposed by the Board. The holding of the arbitration award has nothing whatsoever to with the 1996 decision of the STB nor does it affect the grant of the merger. Under the circumstances, this Board does not have any jurisdiction to review the award. Any review of the award or the merits of UPRR's appeal must be left to another forum.

For the foregoing reasons and authorities, BLET respectfully asks the Board to deny the instant motion. Ten (10) copies of this letter and attachments are also enclosed. A certificate of service accompanies this letter.

I further declare under penalty of perjury pursuant to 28 USC § 1746 that the foregoing factual statements are true and correct.

Respectfully submitted,



Gilbert Gore
General Chairman

cc: Rodney A. Harrison, Esq.
Clifford A. Godiner, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing were served upon Rodney A. Harrison and Clifford Gardner, Thomas Coburn LLP, One US Bank Plaza, St. Louis, Missouri, by facsimile and mail, first class postage prepaid, on this 20th day of February 2008



The Brotherhood of Locomotive Engineers and Trainmen

Union Pacific Railroad Southern Region
 General Committee of Adjustment
Gary L. Perrien - Vice Chairman
 1448 MacArthur Avenue Harvey, LA 70058
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 glperrien@bltsr.org
Proud Member of the International Brotherhood of Teamsters

February 20, 2008

**BY FAX (202) 245-0464
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Anne K. Quinlan, Esquire
 Acting Secretary
 Surface Transportation Board
 395 E Street, S.W., Suite 1149
 Washington, D.C. 20423-0001

Re. **Matter of Arbitration Between Union Pacific Railroad Company and
 Brotherhood of Locomotive Engineers & Trainmen
STB Finance Docket No. 32760, Sub File 45**

Dear Ms. Quinlan.

I respectfully submit that I believe it to be important that I explain the following before continuing.

Since taking office in July of 2000 General Chairman Gilbert Gore and I, 2nd Vice Chairman Gary Perrien, have developed a well established method by which we document every 'noteworthy' communication that comes either into and/or goes out of this office. This includes, but is not limited to letters, faxes, emails, publications and even some audio recordings. Other than for necessary programming changes and software upgrades, the method we are currently using to catalogue these types of records has been in place for practically our entire time in office. The basics of our system are as follows.

- All written and/or electronic communications received, regardless of its type or source, are first reviewed to determine if the material is something needing to be filed. The only exception here pertains to emails, but since this is not applicable I see no need to explain this any further.
- Following the above, and except as noted, all written records are date-stamped with the date received, assigned an Office Records number which is written on the record, copied and entered into our Office Records database.

Anne K. Quinlan, Esquire
February 20, 2008

Page 2

- Information entered into our database includes: the date the communication shows to have been written (if no date is shown the date received is entered), the author(s) name(s), the individual(s) to whom it was directed, a description of its contents and any pending action is then noted. We also notate the specific cabinet, drawer and in most cases even the file folder the record(s) are stored in.
- At this point our Secretary leaves the remaining electronic encoding up to me. She files the original in a 'Pending - New Mail' bin for my and Mr. Gore's review and the copy made previously, into an ongoing 'Numerical' file; some refer to this as their Reading File.
- Upon reviewing such I then perform the remaining electronic encoding as noted.
- The database is program such that once a record entry is completed we can then perform electronic searches of all the entries on file in order to locate a given record or group of records by using any part of the information previously entered.
- We perform regular backups of this data in the event we experience another catastrophe like hurricane Katrina where the 'hard copies' of this data is rendered useless.

I believe you'll agree that we go to extreme lengths to both maintain and document all records of importance this office receives. To say we are diligent and consistent concerning these efforts is truly an understatement.

With this having been said let me now outline for you what I know to be both true and accurate regarding the letter the CARRIER'S MOTION FOR EXTENSION OF TIME TO FILE APPEAL FROM ARBITRATION AWARD, i.e., Financial Docket 32760, Sub File 45.

Upon reviewing both our physical records on file as well as those entered into our Office Records database, no less than twice, I find absolutely no record of the letter the Carrier has made reference to, as noted above, as having been received prior to the evening of Tuesday February 19th, 2008. I would like the record to reflect that I was physically in our office every day during the month of February, to date, to include each Saturday and two of the three Sundays. And furthermore, that I was here each of those days when the US Mail was delivered and personally reviewed the mail received on those same days.

Another practice we have adopted in regards to any correspondence that, by its content appears to be of a more 'important' nature than most, is to e-fax it directly to Mr. Gore. I assure you that if the letter the Carrier is referring to had in fact been delivered prior to our receiving such Tuesday February 19th my Secretary would have immediately e-faxed it to Mr. Gore, of which she has not such record of having done. Additionally, she and I would have entered it into our Office Records database, and again there is absolutely no record of this occurring.

Anne K. Quinlan, Esquire
February 20, 2008

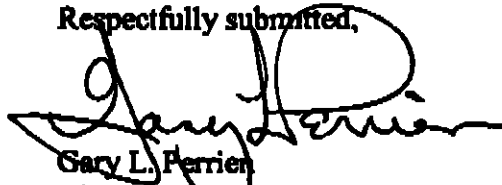
Page 3

As an additional means to further substantiate our above assertion I offer you the attached email I sent to both Mr Gore and BLE&T Vice President EL Pruitt the evening of Tuesday February 19th, 2008. Upon examination you'll see that it was sent at 4:04 pm CST and that I noted in the body of my email as having just received such

For the foregoing reasons and authorities, BLET respectfully asks the Board to deny the instant motion. Ten (10) copies of this letter and attachments are also enclosed. A certificate of service accompanies this letter.

I further declare under penalty of perjury pursuant to 28 USC § 1746 that the foregoing factual statements are true and correct.

Respectfully submitted,



Gary L. Ferrier
Vice Chairman

cc: Rodney A. Harrison, Esq.
Clifford A. Godiner, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing were served upon Rodney A. Harrison and Clifford Gardner, Thomas Coburn LLP, One US Bank Plaza, St. Louis, Missouri, by facsimile and mail, first class postage prepaid, on this 20th day of February 2008

GL Perrien

From: GL Pemen [glperrien@bltsr.org]
Sent: Wednesday, February 20, 2008 6:20 AM
To: 'glperrien@cox.net'
Subject: FW: STB - UPRR req for time extension
Attachments: STB - UPRR Req for time extension.tif

Brothers:

This just came in a few minutes ago and knew you'd both be interested in having it.

Gary

2/20/2008

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760, SUB FILE 45

**IN THE MATTER OF ARBITRATION BETWEEN UNION PACIFIC RAILROAD
COMPANY AND BROTHERHOOD OF LOCOMOTIVE ENGINEERS & TRAINMEN**

(Arbitration Review)

**CARRIER'S MOTION FOR EXTENSION OF TIME
TO FILE APPEAL FROM ARBITRATION AWARD**

COMES NOW Union Pacific Railroad Company (hereinafter "Carrier"), by and through counsel, and moves this Board to permit Carrier an additional 7 days, or until February 22, 2008, to file its appeal from the award of Arbitrator Robert Perkovich, in the above-referenced docket. In support of this Motion, the Carrier states as follows:

1. This matter arises out of a dispute between the Carrier and the Brotherhood of Locomotive Engineers & Trainmen ("BLET") regarding the Carrier's right to establish interdivisional service between Houston, Texas, and several other locations in Texas. The dispute involves important and complex issues regarding the interplay between the 1986 BLET National Agreement and the Houston Hub Merger Implementing Agreement ("Hub Merger Agreement") that was negotiated to implement the economics and efficiencies made possible, as well as the labor protections required, by the Board's approval of the merger between the Carrier and Southern Pacific in Union Pacific Corp. - Control and Merger - Southern Pacific Transp. Co., STB Finance Docket No. 32760 (served August 12, 1996).

2. On January 15, 2008, the Board granted a Carrier request to allow it until February 15, 2008, to file its appeal.

3. Carrier's counsel proceeded to work on the appeal brief and the needed exhibits thereto. Rodney A. Harrison and Clifford A. Godiner are the two primary attorneys working on the brief and exhibits.

4. Although the brief and exhibits are mostly complete, Mr. Harrison has become quite ill and unable to complete the needed work to put the brief in final form. Mr. Harrison has been diagnosed with pneumonia and has been unable to come to the office or perform any substantial work this entire week. He will be out of the office the rest of this week (through February 15, 2008), and currently expects to return to the office on Monday, February 18, 2008. Mr. Godiner's schedule will not permit him to complete Mr. Harrison's portion of the brief by this Friday.

5. Given these circumstances, UP respectfully requests one additional week, to and including February 22, 2008, to file its appeal brief and exhibits in the above-referenced matter.

WHEREFORE, Carrier Union Pacific Railroad Company respectfully requests the Surface Transportation Board to enter an Order granting an additional 7 days, to and including February 22, 2008, to file its appeal and for such other relief as is warranted.

Respectfully submitted,

THOMPSON COBURN LLP

By 

Rodney A. Harrison
Clifford A. Godiner
One US Bank Plaza
St. Louis, Missouri 63101
314-552-6000
FAX 314-552-7000

Attorney for Carriers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon Gilbert Gore, 1448 MacArthur Avenue, Harvey, Louisiana 70058, by United States Mail, first class postage prepaid, this 13th day of February 2008.



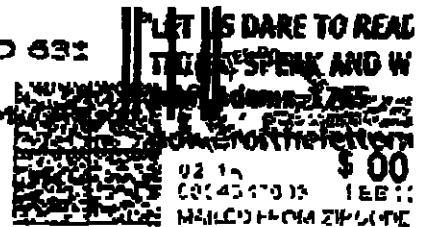
THOMPSON COBURN

*Thompson Coburn LLP
Attorneys at Law*

One US Bank Plaza
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**BLEAT Southern Region
FEB 19 2008**

ST LOUIS MO 631
13 FEB 2008 PM



|||||
Mr. Gilbert Gore
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